**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD**

## THE HON'BLE Mr. JUSTICE R. SUBHASH REDDY

**Writ Petition No.3978 of 1998**

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**Dated: September 5, 2006**

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**Between:**

M. Surekha, D/o. M. Jaganmohan Rao, aged about 27 years, R/o. Vishwanadha Street, Jangareddygudem, W.G. District, and another.

… Petitioners

And

The Govt. of A.P., rep. by its Secretary, Education Department, Secretariat Buildings, Hyderabad, and Others.

… Respondents

## Order:

This writ petition has been filed seeking Mandamus declaring the action of the respondents in not appointing the petitioners as SGBT teachers in the existing vacancies as illegal and arbitrary.

2. Pursuant to the notification dated 27-01-1996 issued by the second respondent for appointment to the posts of SGBT teachers,

Language Pandits and Physical Education teachers, petitioners have applied and attended the written test on 02-03-1996. It is stated that they have gone through the written test and also the interview. When the said notification was issued, vacancy position as on 27-01-1996 was taken into consideration, however, subsequently, even the vacancies, which arose upto 12-06-1997, were taken into consideration.

3. The grievance of the petitioners is that the respondents ought not to have taken vacancy position upto 12-06-1997 into consideration, which is against the policy of the government.

4. This court, at the stage of admission, by order dated 13-02-1998 granted interim directions to consider the claims of the petitioners for appointment to the posts of Secondary Grade Basic Training Teachers in the existing vacancies in West Godavari District in the light of the judgment of a Division Bench of this court in **A. Somalingam and others Vs. Government of Andhra Pradesh**[1]**.** In the aforesaid judgment, the Division Bench has held that though recruitment in excess of the notified vacancies is normally held to be bad, there is no inflexible rule that in all cases where the number of candidates selected is more than the number of vacancies advertised, the selection is bad. It was also held that the State can deviate from the advertisement and make appointments on posts falling vacant thereafter in exceptional circumstances, but such a deviation from the advertisement must be supported by policy decision of the State.

5. As much as this court has already issued interim directions,
I dispose of the writ petition directing the respondents to continue them in services as per the same terms and conditions and applicable rules,

if they were appointed pursuant to the orders of this court dated 13-02-1998.

**JUSTICE R. SUBHASH REDDY.**

September 5, 2006
**MRR**

[1] **1997 (5) ALT 482 (D.B.)**